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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/693,409 | 10/24/2003 | Jeffrey P. Snover | MS1-1739US | 1913 |
| 22801 | 7590 | 07/24/2006 | EXAMINER | |
| LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201 | | | WOOD, WILLIAM H | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2193 | |

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/693,409 | SNOVER ET AL. | |
| | Examiner | Art Unit | |
| | William H. Wood | 2193 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-20 are pending and have been examined.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6, 8, 9-10 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Altiris **RapidInstall**, version 3.0, "Release Notes".

Claim 1

RapidInstall disclosed in a command line operating environment, a computer-executable method comprising:

executing each command on a command line in a first execution mode or in an alternate execution mode (*page 1, section "Simulated Install -si command line"*), wherein executing the command in the alternate execution mode occurs when the command includes an instruction to execute in the alternate execution mode (*page 1, section "Simulated Install -si command line"*), the alternate execution mode being provided by the command line operating

environment (*the RapidInstall environment*).

Claim 2

RapidInstall disclosed the computer-executable method of claim 1, wherein the alternate execution mode visually displays results of executing the command (*page 1, section "Simulated Install -si command line"*).

Claim 3

RapidInstall disclosed the computer-executable method of claim 1, wherein the alternate execution mode visually displays simulated results of executing the command (*page 1, section "Simulated Install -si command line"*).

Claim 6

RapidInstall disclosed the computer-executable method of claim 1, wherein executing the command in the alternate execution mode further occurs when the command line includes a switch indicating the alternate execution mode (*page 1, section "Simulated Install -si command line"*).

Claim 8

RapidInstall disclosed the computer-executable method of claim 1, wherein the instruction comprises a call to a method provided by the command line

operating environment (*page 1, section "Simulated Install -si command line"; the RapidInstall environment*).

Claims 9-10 and 16-18

The limitations of claims 9-10 and 16-18 are substantially the same as for claims 1-3, 6 and 8 and as such are rejected in the same manner.

Claim 12

RapidInstall disclosed the computer-readable medium of claim 9, wherein the task comprises a stand-alone executable command (*page 1, section "Simulated Install -si command line"*).

Claim Rejections - 35 USC § 102/103

3. Claims 7 and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Altiris

RapidInstall, version 3.0, "Release Notes".

Claim 7

RapidInstall disclosed the computer-executable method of claim 6, wherein the switch comprises "whatif" (*nonfunctional descriptive material reads upon RapidInstall page 1, section "Simulated Install -si command line"; "whatif" is*

unique label just like “-si”) and the alternate execution mode visually displays simulated results of executing the command (*see claim 3*).

Claim 11

The limitations of claims 11 are substantially the same as for claim 7 and as such are rejected in the same manner.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 5, 13-15, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altiris **RapidInstall**, version 3.0, “Release Notes” in view of Applicant Admitted Art (**APA**).

Claims 4 and 19

RapidInstall did not explicitly state *wherein the alternate execution mode prompts for verification of executing the command before executing the command*. **APA** demonstrated that it was known at the time of invention to make use of verification prompts. It would have been obvious to one of ordinary skill in the

Art Unit: 2193

art at the time of invention to implement **RapidInstall** with a verification process as is often typical. This implementation would have been obvious because one of ordinary skill in the art would be motivated to allow a user to “make sure” before an action irrecoverably alters the system’s configuration or performance.

The limitations of claim 19 are substantially the same as for claim 4 and as such are rejected in the same manner.

Claims 5 and 20

RapidInstall did not explicitly state *wherein the alternate execution mode performs a security check to determine whether a user requesting the execution of the command has sufficient privileges to execute the command*. **APA** demonstrated that it was known at the time of invention to make use of command security checking. It would have been obvious to one of ordinary skill in the art at the time of invention to implement **RapidInstall** with a verification as to user security or access level process as is often typical. This implementation would have been obvious because one of ordinary skill in the art would be motivated to allow a system to provide security to functions or commands which might have a significant impact on a system’s configuration or performance.

The limitations of claim 20 are substantially the same as for claim 5 and as such are rejected in the same manner.

Claims 13-15

RapidInstall did not explicitly state *wherein the task comprises a pipeline of executable commands, each executable command operating in a separate process; wherein the task comprises a pipeline of executable commands, each executable command operating in the same process; or wherein each executable command comprises an instantiated class*. **APA** demonstrated that it was known at the time of invention to make use of multi-process/threaded systems; pipelining processes and objected oriented class/object technology. It would have been obvious to one of ordinary skill in the art at the time of invention to implement **RapidInstall** system with each of the above technologies to create a series of pipelined commands operating on either one process or multiple processes and using class instantiation. This implementation would have been obvious because one of ordinary skill in the art would be motivated: to increase flexibility (of design and implementation) through the use of discrete pipelineable commands; to increase workload throughput through multiple processes; and to increase ease of software maintenance with object oriented technology.

Response to Arguments

6. Applicant's arguments filed 05 May 2006 have been fully considered but they are not persuasive. Applicant argues the **RapidInstall** environment is not the command line operating environment and therefore cannot disclose an alternative execution mode or a call to a method provided by the command line operating environment. Additionally, Applicant apparently challenges use of Official Notice on claims 4-5, 13-15 and 19-20. The arguments are unpersuasive.

RapidInstall is a command line operating environment under the broadest reasonable interpretation (page 1, last paragraph, "-si command line"). Clearly, **RapidInstall** provide command line functionality and is an environment/program/software, which operates. The claims do not require more. Therefore, as a command line operating environment, **RapidInstall** provides the above limitations in question.

Applicant's traverse of the Official Notice of claims 4-5, 13-15 and 19-20 is not adequate. MPEP 2144.03 section C states, "[t]o adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art" (emphasis added). Applicant failed to question the Official Notice facts altogether and merely questions Official Notice itself and apparently the lack of a written reference (Response: page 14, first paragraph). Therefore, the Official Notice in question is taken to be Applicant Admitted Art.

Having addressed all of Applicant's concerns, the rejections are maintained as above indicated.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 9:00am - 5:30pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)-272-3719. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Art Unit: 2193

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

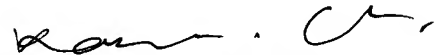
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.



William H. Wood
Patent Examiner

AU 2193

July 17, 2006



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